

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

MAY 22 2008

DAVID J. MALAND, CLERK

ESN, LLC,

Plaintiff,

v.

CISCO SYSTEMS, INC., and
CISCO-LINKSYS, LLC,

Defendants.

CIVIL ACTION NO. 5:08-CV-20-DF

JURY TRIAL DEMANDED

DOCKET CONTROL ORDER

Step	Action	Rule	Due Date
1	Initial Case Management Conference	Patent L.R. 2-1 FRCP 26(f)	April 22, 2008
2	ESN serves disclosure of asserted claims and preliminary infringement contentions of a reasonable number of representative claims	Patent L.R. 3-1	April 18, 2008
3	ESN makes document production accompanying disclosure	Patent L.R. 3-2	April 18, 2008
4	Initial Disclosures	FRCP 26(a)(1)	May 2, 2008
5	Cisco serves preliminary invalidity contentions	Patent L.R. 3-3	June 2, 2008
6	Cisco makes document production accompanying preliminary invalidity contentions	Patent L.R. 3-4	June 2, 2008
7	All parties make exchange of proposed terms and claim elements for construction	Patent L.R. 4-1(a)	November 7, 2008
8	ESN shall limit the number of asserted claims to no more than (10) and notify Cisco and the Court		November 21, 2008

Step	Action	Rule	Due Date
9	All parties meet and confer to discuss list of proposed terms and claim elements for construction	Patent L.R. 4-1(b)	December 5, 2008
10	Deadline for early mediation at the Parties' request		October 22, 2008
11	All parties make exchange of preliminary claim construction and extrinsic evidence	Patent L.R. 4-2	December 19, 2008
12	All parties meet and confer to discuss preliminary claim construction and extrinsic evidence	Patent L.R. 4-2(c)	January 20, 2009
13	All parties jointly file Joint Claim Construction and Prehearing Statement	Patent L.R. 4-3	February 10, 2009
14	Deadline to join other parties without leave of Court, which shall be at least 60 days before dispositive motions		February 10, 2009
15	Deadline to file amended pleadings without leave of Court		No later than 30 days before dispositive motions are due
16	Completion of Claim Construction discovery	Patent L.R. 4-4	March 11, 2009
17	ESN files opening claim construction brief	Patent L.R. 4-5(a)	April 1, 2009
18	Cisco files responsive claim construction brief	Patent L.R. 4-5(b)	April 22, 2009
19	ESN files reply brief on claim construction	Patent L.R. 4-5(c)	May 1, 2009
20	ONLY WITH LEAVE OF COURT may Cisco file a sur-reply		If allowed: May 8, 2009
21	Parties file Joint Claim Construction Chart	Patent L.R. 4-5(d)	At least 10 days before Claim Construction Hearing May 29, 2009

Step	Action	Rule	Due Date
22	Prehearing Conference and technical tutorial if necessary		June 10, 2009 2:00 pm
23	Claim Construction Hearing	Patent L.R. 4-6	June 11, 2009 9:00 am
24	Court's Claim Construction Ruling		On or about (3 weeks after 23) subject to the Court's scheduling and/or use of a technical advisor
25	ESN makes final infringement contentions	Patent L.R. 3-6(a)	On or about 30 days after 24
26	Cisco serves preliminary unenforceability contentions		On or about 40 days after 24
27	Cisco makes document production accompanying preliminary unenforceability contentions		On or about 40 days after 24
28	Cisco makes final invalidity contentions	Patent L.R. 3-6(b)	On or about 50 days after 24
29	Cisco makes disclosure relating to willfulness	Patent L.R. 3-8	On or about 50 days after 24
30	Cisco makes final unenforceability contentions		On or about 60 days after 24
31	Deadline for completion of all fact discovery, which shall be at least 90 days before the final pre-trial conference		On or about 90 days after 24
32	Deadline for disclosure of expert testimony on issues for which a party bears the burden of proof	FRCP 26(a)(2) L.R. CV-26(b)	On or about 90 days after 24
33	Deadline for disclosure of rebuttal expert testimony	FRCP 26(a)(2) L.R. CV-26(b)	On or about 110 days after 24

Step	Action	Rule	Due Date
34	Deadline for late mediation at the Parties' request		TBD by Court
35	Deadline for completion of expert discovery		30 days after rebuttal expert testimony
36	Deadline for objections to other parties' expert witnesses		14 days after 35
37	Deadline for filing dispositive motions, including motions on invalidity and unenforceability, which shall be at least 75 days before initial pretrial conference		At least 75 days before initial pretrial conference January 19, 2010
38	Deadline for filing all Daubert motions		January 19, 2010
39	Deadline for parties to make pretrial disclosures	FRCP 26(a)(3)	At least 30 days before initial pretrial conference March 5, 2010
40	ESN to provide to other parties its information for Joint Pretrial Order, Proposed Jury Instructions and Verdict Form		At least 30 days before initial pretrial conference March 5, 2010
41	Cisco to provide to ESN its information for Joint Pretrial Order, Proposed Jury Instructions and Verdict Form		At least 30 days before initial pretrial conference March 5, 2010
42	Parties to file Proposed Joint Pretrial Order, Proposed Jury Instructions, Joint Verdict Form and Motions in Limine. Prior to initial pretrial conference, parties shall confer with each other regarding the other party's Motions in Limine, deposition designations, and exhibit lists and shall submit to the Court in writing any objections they may have to the other party's Motions in Limine, deposition designations, and exhibits.		March 21, 2010

Step	Action	Rule	Due Date
43	Initial Pretrial Conference and hearing on Motions in Limine if required and hearing on objections to deposition designations and exhibits		TBD
44	Final Pretrial Conference before Judge David Folsom		April 5, 2010
45	Jury Selection before Judge Folsom		April 6, 2010
46	Privilege Logs		September 22, 2008

SIGNED this 22nd day of May, 2008.



DAVID FOLSOM
UNITED STATES DISTRICT JUDGE